

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

DENNIS DIMON,

Plaintiff,

VS.

**METROPOLITAN LIFE
INSURANCE COMPANY, KEMPER
INSURANCE COMPANY,
MORGAN STANLEY DW, INC.,
MICHAEL B. LATTI, LATTI
ASSOCIATES, and LATTI &
ANDERSON LLP,**

Defendants.

C. A. No: 05-11073 NG

**METROPOLITAN LIFE INSURANCE COMPANY’S
MOTION IN LIMINE
TO PRECLUDE EXPERT TESTIMONY REGARDING DAMAGES**

ORAL HEARING REQUESTED

Defendant, Metropolitan Life Insurance Company (hereinafter “MetLife”), moves for an Order to limit the amount of Plaintiff’s alleged damages to \$166,898.28 – the amount of payments that Plaintiff would have received to date had American Motorists Insurance Company purchased a lifetime annuity.

During discovery, Plaintiff failed to identify or produce any documents, evidence, or testimony regarding Plaintiff’s life expectancy. Therefore, Plaintiff may not be allowed to submit at trial, *for the first time*, inadmissible expert testimony regarding his life expectancy. Damages in the future are entirely speculative.

The amount of payments that Plaintiff would have received if American Motorists Insurance Company had purchased a lifetime annuity, to date, would be \$166,898.28 in excess of the \$467,689.62 that Plaintiff already received from MetLife. *See Attached Spreadsheet*, referred as Exhibit "A".

WHEREFORE, Metropolitan Life Insurance Company prays that this Court issue an Order to limit the amount of Plaintiff's alleged damages to \$166,898.28.

REQUEST FOR ORAL ARGUMENT

MetLife respectfully requests that, pursuant to Local Rule 7.1(D), the Court schedule this matter for oral argument. Oral argument will assist the Court in making its decision on MetLife's Motion.

Respectfully submitted by:

Defendant,

METROPOLITAN LIFE INSURANCE
COMPANY,

By its Attorneys,

/s/ James J. Ciapciak

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing document was filed via the ECF system and will be served electronically through that system upon Counsel of Record on May 12, 2008.

/s/ Peter M. LeBlanc

Peter M. LeBlanc

A

<u>Year*</u>	<u>Year</u>	<u>Monthly Payment</u>	<u>Alleged Damages</u>
June 5, 2003 -May 5, 2004	21	\$2,619.67	\$31,436.05
June 5, 2004 -May 5, 2005	22	\$2,698.26	\$32,379.13
June 5, 2005 -May 5, 2006	23	\$2,779.21	\$33,350.51
June 5, 2006 -May 5, 2007	24	\$2,862.59	\$34,351.02
June 5, 2007 -May 5, 2008	25	\$2,948.46	\$35,381.55
			<u>Total Alleged Damages</u>
			\$166,898.28

*Dividing
Month is
June, each
year.